

REMARKS

In the Official Action dated January 16, 2008, the Examiner rejected pending claims 1-23 and 25-35 and 36-47. Applicants request that the Examiner reconsider the rejection in light of the following discussion.

Preliminarily, Applicants note that 41 has been amended simply to affect an editorial amendment. The change is not made for any reason related to patentability.

Additionally, Applicants note that there was no §103 rejection of dependent claim 7. Accordingly, claim 7 has been amended to incorporate the features of the claims from which it depended. Therefore, Applicants request an indication that claim 7 is allowable.

§112 Rejection

The Examiner rejected claim 23 under §112 as being vague because the phrase “in a way” is unclear. Applicant eliminated the phrase “in a way” from claim 23 in the previous amendment. Accordingly, Applicants request that the Examiner reconsider the §112 rejection of claim 23.

§102 Rejection

The Examiner rejected claims 1-23, 25-35 and 37-47 as anticipated by Cura et al 6,855,079. However, the present application claims priority to Cura ‘079. Therefore, Cura ‘079 is not prior art against the pending application. Accordingly, Applicants request that the Examiner remove the §102 rejection based on Cura ‘079.

§103(a) Rejection

The Examiner recognizes that the JP (403-163245) reference does not teach or suggest an indicator for indicating the bias of the tensioner. To fill this gap in the teaching, the Examiner relies upon St. John 4,957,471. The problem is that the analysis of the St. John '471 device is not correct from a technical standpoint.

First, the office action states that the St. John '471 device includes an indicator

"that inherently indicates the rotational movement of the arm to indicate the amount of tension in the system and the amount of torque in the spring."

This statement simply is untrue. St. John '471 the indicator in St. John cannot detect the amount of torque in the spring because St. John does not use a spring to bias the arm 11. St. John '471 is directed to a frictional type tensioner.

Applicants' device includes a biasing element such as a torsional spring that biases a tensioner arm. As the belt stretches, the tension of the biasing element urges the arm toward the belt to pick-up the slack. In other words, Applicants' device uses a biasing element to provide a dynamic biasing force that can change during operation of the belt.

In contrast, the device in St. John's does not have a biasing element to bias the tensioner arm toward the belt. Instead, St. John '471 is a static tensioner that uses frictional force to tension a belt. Specifically, as discussed in col. 3 lines 1-45, a tensioner arm 11 is mounted to a mounting element 20 (e.g. the user's machine) by a pivot screw 40. Tightening down the pivot screw increases the frictional force between the tensioner arm 11 and the mounting element 20. The arm is pivoted against the belt and then tightened down. See col. 3 lines 34-41.

As can be seen from the foregoing, since St. John '471 is a static tensioner, it does not have a spring biasing a tensioner arm. Therefore,, the indicator in St. John '471 cannot possibly be an indicator for determining the tension in a spring. Accordingly, St. John '471 does not fill the shortcoming in the teaching of JP 403-163245. Therefore, Applicants request that the Examiner reconsider the rejection of claims 1-6, 8-23, 25-35 and 37-47.

Further still, the indicator in St. John '471 cannot indicate which direction is the preferred direction with the biasing element is in a relaxed state. Again, as stated above, the device in St. John '471 does not include a biasing element so it does not teach or suggest an indicator for detecting any feature of a biasing element. As an extension, it does not teach or suggest indicating which direction is a preferred direction for a reversible biasing element.

Additionally, St. John '471 does not teach or suggest indicating the preferred direction when the biasing element is in the relaxed position.

The office action states:

"If the direction of the spring is reversed, the direction of the pointer will be in the opposite towards the left or the ring [sic?]of the indicator (14) , thus indicating the preferred direction of the biasing forces in the relaxed state." See Page 5 of Office Action.

This is simply a mischaracterization of St. John, because there is no spring to reverse. Further still, even if there were a spring, the indicator would read zero when the spring is in the relaxed state. Therefore, the indicator would not be operable to indicate the preferred direction when the spring is in an unbiased state. In other words, if the spring is in a first orientation, but is unbiased, the indicator will read zero. Similarly, if the spring is in a second orientation, but unbiased, the indicator will still read zero. Therefore, the indicator cannot tell the user the preferred direction when the spring is

Patent Application No. 10/632,703

unbiased. For this additional reason, claims 1-6, 8-23, 25-35 and 37-47 are patentable over the prior art of record.

Double Patenting Rejection

The double patenting rejection is based on the premise that St. John '471 teaches or suggest features of the pending claims that render the claims obvious over the claims of 6,855,079. However, as discussed above, St. John '471 does not teach or suggest such features. Accordingly, Applicants request that the Examiner reconsider the rejection of the pending claims under obvious-type double patenting.

In light of the foregoing, Applicant believes that this application is in form for allowance. The Examiner is encouraged to contact Applicant's undersigned attorney if the Examiner believes that issues remain regarding the allowability of this application.

Respectfully submitted,

DANN, DORFMAN, HERRELL & SKILLMAN
A Professional Corporation
Attorneys for Applicant(s)

By _____/Stephen Eland/
Stephen H. Eland
PTO Registration No. 41,010

Telephone: (215) 563-4100
Facsimile: (215) 563-4044